

Applicants : J. Dyall, C.P. Romano, P.D. Olivo, and R.M. Roth
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Remarks

Claims 1, 3-10, 26, 27, 55-64, 68 and 69 are now pending. Claims 55-64, 68 and 69 are allowed, claims 2 and 27 are objected to, and claims 1, 3-10 and 26 stand rejected. Claim 1 is amended and 2 is cancelled, without prejudice or disclaimer, to more particularly point out and distinctly claim the invention.

Rejections under 35 U.S.C. 102(e)

Claims 1 and 4-8 stand rejected under 35 U.S.C. 102(e) as being anticipated by Capon et al., U.S. 2002/0034732. The PTO asserts that the rejected claims read on performing the claimed assay on separate cell cultures in parallel. Applicants respectfully request reconsideration and withdrawal of these rejections based on the claim amendments and the following discussion.

The rejected claims as amended are limited to assays where the two cell cultures are combined. This is specifically stated in claim 1. Rejected claims 4-8 depend from claim 1, and thus those claims are also limited to assays where the two cell cultures are combined. Since the rejected claims are not directed to the assay of the separate cultures in parallel, applicants respectfully request withdrawal of the rejections under 35 U.S.C. 102(e).

Rejections under 35 U.S.C. 103(a)

Claims 3, 9, 10, and 26 are variously rejected under 35 U.S.C. 103(a) as being unpatentable over Capon et al. (cited above), in some cases combined with other references. The rejections depend on the claims encompassing the assay of the two cultures separately. Since all of the rejected claims as amended encompass only assays where the two cell cultures are combined, applicants assert that Capon et al. does not render the claims obvious, because Capon et al., alone or in combination with any other

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reference, does not teach or suggest the combining of the cell cultures as specifically required by the rejected claims. Since the cited references do not teach or suggest every limitation of the claims, applicants assert that the rejections under 35 U.S.C. 103(a) cannot stand. Accordingly, applicants respectfully request withdrawal of the rejections under 35 U.S.C. 103(a).

Conclusion

In light of the claim amendments and the above discussion, applicants respectfully request withdrawal of all rejections and objections and passage of the current claims 1, 3-10, 26, 27, 55-64, 68 and 69 to allowance. If there are any minor matters preventing that result, applicants request that Examiner Wortman contact the undersigned attorney.

It is believed that no fee is due with this filing. However, if there are any unanticipated fees required to maintain pendency of this application, authorization is hereby given to charge any such deficiency to Deposit Account No. 01-1785.

Respectfully submitted,

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